

cashier, servant, agent, officer, clerk or other person so employed; and being convicted thereof, shall be punished by imprisonment in the jail or house of correction, for not more than three years, or in the penitentiary for not more than fifteen years,¹ in every indictment for a violation of this Section, when the offense shall relate to coin or notes circulating as money, it shall be sufficient to allege the embezzlement to be of money, without specifying any particular coin or notes circulating as money; and such allegation, so far as regards the description of the property, shall be sustained if the offender shall be proved to have embezzled any amount of coin or notes circulating as money, although the particular species of coin or notes circulating as money, of which such amount was composed, shall not be proved.

An indictment in the language of the statute substantially charges felonious intent and is sufficient to describe the offense. *Crouse v. State*, 163 Md. 433.

Where agent of a piano company collected and failed to report money belonging to company, not off-set by compensation due him, and such money was not treated by company as an ordinary debt, the case presents every indication of embezzlement. *Jordan v. Piano Co.*, 140 Md. 212.

In an indictment of a clerk to county commissioners under this section, a tax bill on which was written "Received payment, W. D., Collector, per J. A. D., Clerk, County Commissioners," is evidence. Embezzlement by clerk to county commissioners is within scope of this section. It is not necessary to show that traverser received the money "by virtue of his employment," nor that he had authority to receive it, but only that it was received in name or on account of employer. *Denton v. State*, 77 Md. 528. And see *State v. Denton*, 74 Md. 517.

An indictment which merely charges the larceny of \$102.72 "current money, a more particular description of which said money the jurors aforesaid have not and cannot give," is properly quashed as too vague. *State v. Denton*, 74 Md. 518.

An indictment under this section which does not allege ownership of property or money embezzled, is not sufficient. *State v. Tracey*, 73 Md. 447.

An attorney-at-law is an "agent" within meaning of this section. The jury are judges of law as well as of facts in a criminal case; improper statement to jury by state's attorney. *Dick v. State*, 107 Md. 12.

For suits for malicious prosecution growing out of indictment under this section, see *Moneyweight Co. v. McCormick*, 109 Md. 179; *Medcalfe v. Brooklyn Life Co.*, 45 Md. 202; *Jordan v. Piano Co.*, 140 Md. 212.

An. Code, 1924, sec. 130. 1912, sec. 113. 1910, ch. 477 (p. 87).

141. If an insurance agent, solicitor or broker who acts in negotiating a contract of insurance by an insurance company lawfully doing business in this State, and who embezzles or fraudulently converts to his own use, or, with intent to use or embezzle, takes, secretes, lends, invests or otherwise uses or applies any money or substitute for money received by him as such agent, solicitor or broker, contrary to the instructions or without the consent of the company for or on account of which the same was received by him, he shall be guilty of a misdemeanor, and, on conviction thereof, shall be sentenced to the jail or penitentiary for not more than three years, in the discretion of the court.

An. Code, 1924, sec. 131. 1912, sec. 114. 1904, sec. 104. 1900, ch. 22, sec. 75A.

142. If any executor, administrator, guardian, committee, trustee, receiver or any other fiduciary shall fraudulently and wilfully appropriate to any use and purpose not in the due and lawful execution of his trust, any money or any other thing of value which may come into his hands as such executor, administrator, guardian, committee, trustee, receiver, or in any other fiduciary capacity, or secrete it with a fraudulent intent to appropriate it to such use or purpose, he shall be deemed guilty of embezzlement, and shall be punished upon conviction by imprisonment in the penitentiary for not less than one year nor more than five years.

Cited but not construed in *Dick v. State*, 107 Md. 15, 21, 23.

¹ The punctuation of this line is just as it appears in the act.